

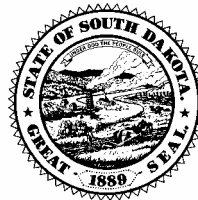
Filing Procedures

# Uniform Commercial Code



Courtesy of  
*Chris Nelson*  
*Secretary of State*  
2003

**South Dakota Secretary of State**  
**500 East Capitol Avenue**  
**Pierre, SD 57501**  
**Phone: 605-773-4422**



## Introduction

*This booklet serves only as a guide to file records under the Uniform Commercial Code (UCC) in South Dakota and also to file Effective Financing Statements (EFS) as notification under the Federal Food Security Act.\**

*Please read the book carefully, as it should be helpful in preventing errors in filing and thus allow us to file your record without having to return it for correction.*

*Please feel free to contact our office if you have any questions or comments, or if we can be of service to you.*



**Chris Nelson**  
**Secretary of State**

*The Security Act of 1985, which was passed by the United States Congress, gave the states an option to choose either of two plans to notify purchasers of farm products of an existing security interest: a central filing system or prenotification. The 1987 South Dakota Legislature passed a law to allow implementation of a central filing system. If farm products are filed only under the UCC and not as an EFS, they are not reported on the central filing list which is distributed to buyers of farm products. The EFS portion must be completed to be included on the notification list.*

**Chris Nelson**  
**Secretary of State**

\*All legal questions should be addressed by your attorney.

## **Uniform Commercial Code (UCC)**

The Uniform Commercial Code (UCC) is a compilation of statutes designed to perfect commercial transactions and to promote uniformity among various filing jurisdictions. Notwithstanding their complexities, commercial transactions basically involve the sale of and purchase of goods.

Under the Uniform Commercial code, financing records are filed to make a public record of secured transactions between a debtor and a secured party. The financing records are extremely important in establishing priority among creditors in judicial proceedings, including bankruptcy, to determine rights of conflicting creditors. Therefore, the fundamental objective of the UCC is to provide measures to protect the debtor and the secured party by filing a financing record in the proper jurisdiction under uniform provisions.

South Dakota is one of 50 states, plus the District of Columbia, which has adopted the Code. The Code became effective in South Dakota on July 1, 1967. Title 57A of the South Dakota Codified Laws (SDCL) contains the statutes known as the Uniform Commercial Code. SDCL 57A-9 is the Uniform Commercial Code - Secured Transactions.

### **UCC and EFS Forms**

Standard forms: Standard size UCC/EFS forms are 8½ by 11 inches. The standard UCC/EFS forms have been prescribed by administrative rule by the Secretary of State. The South Dakota standard forms are shown on pages 9-10 and 13. The National forms will be accepted as standard. Forms are not provided by the Secretary of State but may be purchased from most printing supply businesses. Forms may be downloaded from the Secretary of State website ([www.state.sd.us/sos/ucc](http://www.state.sd.us/sos/ucc)).

**Fee Schedule for UCC and EFS**  
EFFECTIVE JULY 1, 2003

**BASIC FEES - PAPER FILING**

<b>UCC-1/EFS</b>	Financing Statement (One page record) .....	\$20.00
<b>UCC II - SEARCH REQUEST</b>		
	Search Request (per debtor name) .....	\$20.00
	Copy (per page) .....	\$1.00
	Certified Copy .....	\$10.00 + \$1 per copy
<b>UCC-3</b>	Continuation/ Amendment/ Assignment .....	\$20.00
	Termination .....	No Charge
<b>ADDITIONAL FEES:</b>		
	Additional Debtor Names .....	\$2.00 per debtor name
	Attachments .....	\$4.00
	Mobile Homes .....	\$30.00
	Transmitting Utility (mortgage) .....	\$1.00 per page

**NOTES:**

- The National Form will be accepted as standard.
- Search requests may be faxed if a prepaid account is set up or fees are submitted at time of search - fax fee is \$5.00
- Expedited service is available for an additional \$20.00 per debtor name or company name
- Multiple changes may be submitted on an Amendment.
- Continuations, Amendments, Assignments & Terminations must be submitted on separate records.
- Faxed copies of UCC-1 and UCC-3 will not be accepted.

**DAKOTA FAST FILE (Internet Access)**

<b>ACCESS FEES PER YEAR</b>		
	Filing On Line .....	\$120.00
	Searching .....	\$120.00
	Tickler (continuation) .....	\$120.00
<b>UCC-1/EFS</b>		\$15.00
<b>UCC II - SEARCH REQUEST</b>		
	Search Request (per debtor name) .....	\$10.00
<b>UCC-3</b>	Continuation/ Amendment/ Assignment .....	\$15.00
	Termination .....	No Charge
<b>ADDITIONAL FEES:</b>		
	Additional Debtor Names .....	\$2.00 per debtor name

*For Additional Information and Forms please go to our website:*

**[www.state.sd.us/sos/ucc](http://www.state.sd.us/sos/ucc)**

## **Where to File**

In South Dakota, as in most states, the proper jurisdiction for filing a financing record under UCC is locally with the county office of the register of deeds and centrally with the office of the Secretary of State. The type of collateral determines the proper jurisdiction for filing (SDCL 57A-9-301).

Determination of debtor's location (SDCL 57A-9-307). In this section, "place of business" means a place where a debtor conducts its affairs. Except as otherwise provided in this section, the following rules determine a debtor's location:

- (1) A debtor who is an individual is located at the individual's principal residence;
- (2) A debtor that is an organization and has only one place of business is located at its place of business;
- (3) A debtor that is an organization and has more than one place of business is located at its chief executive office.

### **County Register of Deeds**

When the collateral is timber to be cut or is minerals or the like (including oil and gas) or accounts subject to subsection (6) of § 57A-9-102, or when the financing record is filed as a fixture filing (§ 57A-9-334) and the collateral is goods which are or are to become fixtures, then the UCC would be filed in the office where a mortgage on the real estate concerned would be filed or recorded.

### **Office of the Secretary of State**

In all other cases, financing records are to be filed with the Office of the Secretary of State. Common examples of types of collateral filed with the Secretary of State include accounts, equipment, inventories, farm products, crops, consumer goods, equipment used in farming operations, etc.

## **Telephone Inquiries**

The office of the Secretary of State will service telephone inquiries regarding filings under the Uniform Commercial Code (UCC). The debtor's name, social security number and/or IRS number, and address are needed for the office of Secretary of State to respond to telephone inquiries. This is necessary to avoid duplicate names. The Secretary of State reserves the right to limit the information given over the telephone.

The Secretary of State is not responsible for accuracy and completeness of the information furnished verbally in response to a telephone request (SDCL 57A-9-523(d)). The telephone number for the UCC Division is 605-773-4422.

## **Fax Service**

The Secretary of State's office will accept a faxed search and/or copy request provided all of the required information is provided. A pre-paid account deposit (PAD) (page 5) must be established prior to the request to deduct the required fees. The \$5 fax fee and \$20 expedited fee applies to any request for information to be returned by fax. The Secretary of State's fax number is 605-773-4550.

## **Buyer Registration**

Buyers of farm products, commission merchants and selling agents may register with the Secretary of State's Office to receive regular distribution of the master list (a listing of farm products filed with the Office of the Secretary of State) or portions thereof. Contact the Secretary of State's Office for further information concerning buyer registration and fees.

## **Pre-Paid Account Deposit (PAD)**

As a service to the lending institutions the Secretary of State has implemented a Pre-Paid Account Deposit (PAD) program in order to accept a deposit for filing fees. Filing fees, search request fees and copy charges can be deducted directly from the PAD account, which expedites transactions. For more information about setting up a PAD account, contact 605-773-5006.

## Dakota Fast File

*Dakota Fast File* is a new way to file UCC filings using the Internet. The *Dakota Fast File* system of filing will provide you with a complete management system for your UCC filings.

1. **FILING:** UCC 1, continuations, amendments, terminations, or assignments are filed in a matter of seconds. The form is filled out, the correct amount of money is removed from your account, and the form is filed. Its that simple.
2. **SEARCHING:** While your borrower sits on the other side of your desk, you are able to review all of his UCC filings filed with the Secretary of State. A loan can be processed immediately, a UCC can be filed and within seconds you can perform a search on the new filing and confirm that it has been filed.

If you should require a **certified search** simply click on the underlined CERTIFIED SEARCH and print out the signed record for your files.

3. **TICKLER SYSTEM:** Allows designated personnel to access all of your filings. Continuations may be performed from this screen fast and efficiently. The tickler system informs you as to the exact number of days until the filing expires. **You should never have a filing lapse when using the Dakota Fast File Tickler System.**

## Requirements

### *All you have to do is:*

1. Register with the Secretary of State.
2. Pay a yearly registration (see Fee Schedule on page 3).
3. Establish a prepaid account with The Secretary of State.
4. Sign up with an Internet provider.
5. Have adequate computer equipment to access the Internet.

### *The Secretary of State will:*

Furnish you with the proper security information.

### *For further information email:*

[admin.dakotafastfile@state.sd.us](mailto:admin.dakotafastfile@state.sd.us) Or [dakotafastfile@state.sd.us](mailto:dakotafastfile@state.sd.us)

## Completing UCC 1 and EFS Forms

The UCC 1/EFS form, revised July 2001 (sample on page 9), may be used for filing a UCC 1 and /or EFS.

1. Type all information on the form. Verify all information for accuracy and correct spelling. Information will be entered and any error in the debtor's name, social security number, taxpayer ID number, type of organization, jurisdiction of organization, organizational ID number, or EFS codes will result in reporting errors.
2. Complete the debtor's **proper name** (first, middle initial, last), complete address and social security number. If the debtor is a partnership, corporation, tradename, d/b/a, etc., the IRS taxpayer ID number must also be listed. The debtor's **proper name** should be listed *exactly the same on all filings*. Use of D/B/A, F/K/A, or A/K/A is considered an additional debtor and must be listed as such for accurate searches.
3. Complete the secured party name and address.
4. Complete the assignee and address if applicable.
5. Describe the collateral and check the proceeds or products boxes if applicable. The collateral will be assigned one of the codes from page 14 for computer entry. The code is for general informational purposes only.
6. If the record is to cover farm products and is to be filed as a EFS it is necessary to complete the Effective Financing Statement section of the form:

### ***Read Carefully***

- A. List the name of the farm product from the list on page 16.
- B. Enter the code number preceding the name of the product from the farm product list on page 16. (Example: Barley 2001)
- C. Complete the year. The year for a crop grown in soil is the calendar year in which it is harvested or to be harvested. The year for animals is the calendar year in which they are born or acquired. The year for poultry or eggs is the calendar year in which they are to be sold. If "year" is left blank it covers all years.
- D. Complete the quantity with the number of bushels, head of livestock or other commonly used identifier. If "quantity" is left blank it covers all of the product.
- E. Complete the county code from the list on page 15. The county is the county where the farm product is produced or to be produced. In the case of stored grain or livestock, it is the county where the product is located.
- F. Collateral may be further detailed by giving the location within the county (limit description to 40 characters for computer entry). If county location is left blank, record is for all of the product in the listed county.



\* If "year" and "quantity" are left blank, notice continues for every year the record is effective, and for all crop years during the effective period of the record.

**Do not insert more than one code in a given line.** A separate line must be used for each entry.

- G. Proceeds will be paid to both the debtor and the secured party unless the "secured party only" or "debtor only" boxes are checked.
7. Filing as a UCC 1 will perfect your security position. Filing as an EFS will include the EFS information on the central filing system's master list. Filing as both will do both.
  8. The signatures of both the debtor(s) and the secured party are required if the record is to be filed as an EFS. However, signatures are not required if filed electronically.
  9. ***Submit only the original copy to the filing officer.*** Detach and retain the lender copy and the debtor copy. The filing officer will microfilm the record and return the original showing the filing data.

## Completing UCC 2 Form

Request for information or copies (sample on page 10). Any request for information on any financing record affecting a particular debtor that is on file, or to request copies of such filings, must be made in writing.

A request for information or copies (UCC 2) must contain:

1. Name(s) and address(es) of the debtor(s);
2. Names(s) and address(es) of the party(ies) requesting the information or copies;
3. Contact name and phone number.
4. Type of request indicated (specify the information and/or copies desired);

Upon receipt of an information request, the filing officer will issue a certificate showing whether there is on file, on the date stated, any active and/or lapsed financing records for a particular debtor. If any records are on file, the filing office will indicate the file number, filing date, and the name(s) and address(es) of the secure party(ies).

**[Click here for UCC Forms](#)**

## Completing - UCC 3/ EFS Form

The UCC 3/EFS form, revised July 2001 (sample on page 13), may be used for filing a UCC and/or an EFS continuation, amendment, assignment, or a termination. If the information supplied on the record complies with the UCC law but does not meet the EFS standards, the record will be filed as a UCC. If the record complies with both UCC and EFS requirements, it will be filed as both.

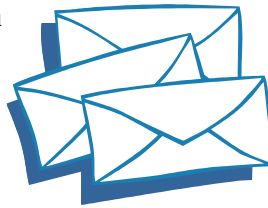
1. Type all information on the form. Verify all information for accuracy and correct spelling. Information will be entered in the computer and any error in the debtor's name, social security number, taxpayer ID number or the EFS codes entered incorrectly will result in reporting errors.
2. Complete the debtor's **proper name** (first, middle initial, last) and complete address along with the debtor's social security number. If the debtor is a partnership, corporation, tradename, d/b/a, etc., the IRS taxpayer ID number, type of organization, jurisdiction of organization, and organization ID number must also be listed. The debtor's name should be listed consistently on all filings.
3. Complete the secured party's name and address.
4. Complete the original financing record number, the date filed, and indicate which filing officer originally filed the record, the Secretary of State or a county register of deeds. Verify the original file number and date.
5. Continuation: Both the original UCC and the EFS may be continued for another five year period of time from the original date of filing by filing a continuation. A continuation record may be filed by the secured party within six months before the expiration of the five-year period.
6. Termination: A termination is required to be filed if the secured party no longer claims a security interest. A termination may be filed using a UCC 3. A secured party must file a termination within one month, or within ten days following written demand by the debtor, after a debtor has performed the obligations necessary to release the secured party's security interest.
7. Assignment: If all or a portion of the collateral is to be assigned, check the box designated "assignment" and list the name of the assignee and the address in the appropriate space and describe the collateral being assigned or insert the wording "all collateral" in the area so designated. An assignment must be signed by both the debtor and the secured party for an EFS.

8. Amendment: When filing an amendment it is imperative to clearly state whether the information is to be added or changed to correctly report the change or addition. If the amendment pertains to the EFS portion it must correctly state all code changes. The amendment must be signed by both the debtor and the secured party for the EFS.
9. Indicate if the record is to be filed as a UCC 3 or EFS or both by checking the appropriate space. Filing as a UCC 3 will change the currently filed UCC as directed. Filing as an EFS will place the information which you place in the EFS portion on the central filing system's master list. Filing as both will do both. If you fill out the EFS portion of the form, you should mark either the EFS or Both boxes.
10. You may only make one transaction with each UCC 3/EFS which is filed. For example, you may not mark both the continuation and amendment boxes. To accomplish these two or any two UCC 3 functions would require two separately filed forms. Amendments may have multiple changes, however, they must be limited to changes on the record.

**Double check:**

- ✓ Social Security Number and Taxpayer ID are listed for each debtor.
- ✓ The proper fee is submitted or the PAD account number is on the record.
- ✓ Both the debtor and secured party signatures are on the EFS filing.

**Uniform Commercial Code Division**  
**Office of Secretary of State**  
**500 East Capitol Avenue**  
**Pierre, SD 57501**  
Phone 605-773-4422  
Fax: 605-773-4550



## UCC Collateral Codes

00	Nothing	29	All Farm Products - Must Include Crops and Livestock
01	Accounts	30	Blanket Business - Includes Accounts Receivable, Inventory, Contract Rights, Chattel Paper, General Intangibles, Fixtures, Equipment, Furnishings
02	Accounts Receivable	31	Federal Tax Lien
03	Accounts Receivable, Inventory	32	Household Goods, Sporting Goods, Entertainment Systems, Appliances
04	Accounts Receivable, Inventory, Equipment	33	Buildings
05	Accounts Receivable, Inventory, Contract Rights, Chattel Paper, General Intangibles	34	Equipment, Inventory, Leases
06	Contract Rights, Partnership Rights, Crop Assignments	35	Minerals, Equipment, Leases
07	Crops	36	Livestock, Machinery
08	General Equipment	37	Crops, Machinery
09	Equipment, Inventory	38	Corn
10	Equipment, Fixtures	39	Barley
11	Equipment, Fixtures, Inventory	40	Wheat
12	Fixtures	41	Oats
13	Fixtures, Equipment, Furnishings, Inventory	42	Grain Sorghum
14	Furnishings, Furniture	43	Soybeans
15	General Intangibles, Liquor Licenses	44	Honey
16	Inventory	45	Rye
17	Leases	46	Dairy
18	Livestock	47	Sunflower
19	Farm Machinery	48	Computer Equipment
20	Minerals	49	Heavy Equipment
21	Personal Property	50	Trailer House
22	Real Estate	51	Equipment and Leases
23	Stocks, Bonds, CD's	52	Railroad Deeds and Mortgages
24	Timber	53	Equipment and dairy
25	Transmitting Utility	54	Ag liens
26	Trust	55	All Assets
27	Blanket Agricultural - Must Include Crops, Livestock and Farm Machinery		
28	Recreational Vehicles		

## South Dakota Counties

Aurora	10	Hyde	38
Beadle	04	Jackson	39
Bennett	11	Jerauld	40
Bon Homme	12	Jones	41
Brookings	06	Kingsbury	42
Brown	03	Lake	43
Brule	13	Lawrence	09
Buffalo	14	Lincoln	44
Butte	15	Lyman	45
Campbell	16	McCook	46
Charles Mix	17	McPherson	47
Clark	18	Marshall	48
Clay	19	Meade	49
Codington	05	Mellette	50
Corson	20	Miner	51
Custer	21	Minnehaha	01
Davison	08	Moody	52
Day	22	Pennington	02
Deuel	23	Perkins	53
Dewey	24	Potter	54
Douglas	25	Roberts	55
Edmunds	26	Sanborn	56
Fall River	27	Shannon	65
Faulk	28	Spink	57
Grant	29	Stanley	58
Gregory	30	Sully	59
Haakon	31	Todd	67
Hamlin	32	Tripp	60
Hand	33	Turner	61
Hanson	34	Union	62
Harding	35	Walworth	63
Hughes	36	Yankton	07
Hutchinson	37	Ziebach	64

## Farm Products

1001	buckwheat	3102	alfalfa for seed	5102	wool
1002	spring wheat	3103	mustard	5103	goats
1003	winter wheat	3201	green peas	5104	llamas
1005	straw	3202	tomatoes		
		3203	lettuce	5200	hogs
2001	barley	3204	cucumbers		
2002	rye (including triticale)	3205	broccoli	5301	dairy cattle
		3206	cauliflower	5302	milk
2003	oats	3207	lima beans	5303	cream
2004	sorghum grain	3208	green beans		
2005	flaxseed	3209	garbanzo beans	5401	horses
2006	safflower	3210	carrots	5402	mules
2007	field corn	3211	turnips	5501	chickens
2008	alfalfa	3212	asparagus	5502	eggs
2009	clover	3213	spinach & collards	5601	turkeys
2010	millet			5602	ducks
2011	milo	3214	pumpkin & squash	5603	geese
2012	durum			5604	game birds
2013	rape seed	3215	watermelon	5605	ostrich
2014	canola	3216	muskmelon		
2015	cane	3217	cantaloupe	5701	mink and pelts
2016	sudan			5702	rabbits
		3301	apples	5703	fox and pelts
2100	hay	3302	plums	5704	lynx, bobcat, pelts
2200	ensilage	3401	strawberries	5705	coyote & pelts
2300	potatoes	3402	raspberries	5750	dogs
2400	sugar beets	3501	sod	5751	cats
2500	dry beans	3502	nursery stock (trees & shrubs)	5752	gerbils
2600	sweet corn			5801	bees / hives
2700	onions	3503	flowers & potted plants	5802	honey
2800	mint			5803	beeswax
2901	popcorn	3600	mushrooms	5901	fish
2902	sunflower seeds				
		5001	beef cattle/calves	6001	deer
		5002	buffalo	6002	elk
3000	soybeans	5003	bison	6100	worms
3001	field peas			6201	cattle semen
3101	grass for seed	5101	sheep & lambs	6202	horse semen

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